IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 18904 of 2004

Between:

K.Umashankar Pathi, S/o.K.Bikshapathi,
House No.1-2-607/23/1/2/4/A, Amedkarnagar, Opp;NTR Stadium,
Indirapark, Hyderbad.

..... PETITIONER

AND

The Regional Manager, APSRTC, City Region, Jubilee Bus Station,
Secunderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of *Writ of Mandamus* by declaring the proceedings of the respondent vide proceedings No.L4/785(4)/2004-HCR dt.12-8-2004 as null and void, illegal, contrary to law, unlawful, arbitrary and capricious and quash the same and consequentially to direct the respondent to appoint me as class-II driver in the respondent corporation.

Counsel for the Petitioner: MR.G.VASANTHA RAYUDU

Counsel for the Respondent: MR.V.T.M.PRASAD

The Court made the following:

ORDER:

For declaring the action of the respondent in issuing the proceedings bearing No.L4/785(4)/2004-HCR, dated 12.8.2004 for not considering the case of the

petitioner in appointing him as Grade-II Driver, as illegal, arbitrary, null and void, the present writ petition has been filed.

2. The case of the petitioner is that he was selected as Grade-II driver in a regular process, which was conducted by the respondent Corporation and he was placed at selection No.488 in the panel and the respondent kept the petitioner as reserve. He further contended that out of the selected candidates, 400 candidates were taken on duty and the remaining 550 candidates were kept as reserve in which the name of the petitioner was placed. During the month of October 2001, during strike period, those empanelled candidates were advised to report for duty and the petitioner informed the respondent that he was prevented by the striking workers from attending duty. Thereafter, he approached the authorities of the respondent Corporation and requested them to consider his appointment as he had lost many opportunities, but the respondent Corporation did not heed the request of the petitioner and went on appointing his juniors. As the respondent in not considering the case of the petitioner for appointing him as driver even though they detained his certificates with them, he constrained to file a writ petition No.3642 of 2004 and the same was disposed of on 22.7.2004, directing the respondent corporation to consider the case of the petitioner for the post of Grade-II driver in the respondent corporation.

3. The petitioner further contended that subsequent to the disposal of the said writ petition, the petitioner approached the respondent corporation to consider his case for appointing him as Grade-II driver by virtue of the orders passed by the Honourable Court. But the respondent corporation rejected the case of the petitioner, since the panel of the selected candidates was expired on 3.2.2002. Challenging the same, the present writ petition has been filed.

4. The learned counsel for the petitioner contended that some of the juniors of the petitioner have been engaged and there cannot be any discriminative treatment for the absence from duty during the strike period and also those who are not called for duty.

5. As seen from the impugned proceedings, it is clear that such of those candidates who reported and worked during the strike period have acquired a right for being re-engaged at a later date, since they were engaged once during the life time of the panel. However, such of those candidates who did not report and not worked during the life of the panel have lost an opportunity, since the panel expired on 3.2.2002. As on today, there is no panel wherein the name of the petitioner is in existence. Therefore, the Regional manager has rightly rejected the case of the petitioner and a Writ of Mandamus cannot be given to the petitioner directing the respondent to act contrary to their own rules and regulations, since the panel of the selected candidates expired on 3.2.2002. Therefore, the writ petition is totally devoid of merits and it is liable to be dismissed.

6. Accordingly, the writ petition is dismissed. No order as to costs.

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(K.C. BHANU, J)

Date: 15.06.2005

Ksn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Regional Manager, APSRTC, City Region,

Jubilee Bus Station, Secunderabad.

2. 2 CD copies